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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,701	11/20/2006	Andre Dittmar	0087.0002	8045

39878 7590 01/18/2008
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EXAMINER

NOORI, MAX H

ART UNIT PAPER NUMBER

2855

MAIL DATE DELIVERY MODE

01/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,701

Applicant(s)

DITTMAR ET AL.

Examiner

Max Noori

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-96 is/are pending in the application.
- 4a) Of the above claim(s) 75-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-64 and 66-74 is/are rejected.
- 7) ☒ Claim(s) 65 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/20/06</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election Acknowledgment

1. Acknowledgment is made of the election of group I claims 40-74, without traverse, the non-elected claims 75-96 are withdrawn from the consideration. The non-elected claims should be canceled by the Application during the prosecution of this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 40-41, are rejected under 35 U.S.C. 102(b) as being anticipated by Mohr.

Mohr discloses a pressure sensitive leveling device with features of the claimed invention including two intercommunicating detection zones with inflatable envelope (see claim 9), each detection zone comprises a detector (see claim 1).

Regarding claim 41, Mohr shows more than two zones (see figure 4).

4. Claims 40, 43-47, 49-53, 55-57, 60-63, are rejected under 35 U.S.C. 102(b) as being anticipated by Cosman.

Regarding claims 40, 50-5, 55, 62, 70-72, Cosman discloses an implantable telemetric differential pressure sensor with features of the claimed invention including plurality of

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intercommunicating detection zones and the corresponding detection means in an inflatable envelope.

Regarding claim 43, the envelope is elastically deformable.

Regarding claim 44, the zones are properly arranged.

Regarding claim 45, Cosmos teaches means for measuring the related spacing (col. 15, line 8).

Regarding claims 46, 49, the detectors are coil inductors.

Regarding claim 47, the detectors capacitor (see claim 3).

Regarding claims 52-53, the conductor must be grounded for a safe condition.

Regarding claim 56, the way an element of an apparatus is made does not change the structure of the claim and does not contribute to the patentability of the claim.

Regarding claims 60-62, the fluid is admitted to the detection zones with pressure.

Regarding claim 63, Cosman considers pressure pulse indicative of its periodic function (see col. 7, line 56).

Regarding claims 70-71, the volume of the zones limits the amount of the fluid.

Regarding claims 72, the leak is visually dateable.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 41-42, 48, 54, 58-59, 64, 66-69, 73-74, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cosman.

Regarding claims 41-42, Cosman does not teach more than two zones, but it would have been obvious for a skilled artisan at the time of the invention to modify his device to provide for arranging the zones to more than two to any desirable number. Because, when all elements of a claim is provided in prior art, the mere increasing the number of the working element is well within the level of a skilled artisan, and is suggested by convenience or a desirable intended use.

Regarding claim 48, since the detector can be of any nature, it would have been obvious for a skilled artisan at the time of the invention to modify Cosman to use any desirable sensor such as an optical one, for convenience or accuracy.

Regarding claim 54, since the information can be of any nature, it would have been obvious for a skilled artisan at the time of the invention to modify Cosman to use any desirable information format such as binary one, for convenience or more accuracy.

Regarding claims 58-59, since the electrical conductors come in variety of forms, it would have been obvious for a skilled artisan at the time of the invention to modify Cosman to use any desirable form for the electrical conductor, for convenience or a desired intended use.

Regarding claim 64, Cosman does not elaborate on the nature of the periodic function, however, it would have been obvious for a skilled artisan at the time of the invention to modify his device to allow for sinusoidal or a saw tooth function since these are the very well known periodic functions.

Regarding claims 66, Cosman does not teach a processor. However, it would have been obvious for a skilled artisan at the time of the invention to modify his device to allow for a

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computer, because in today's technology the use of a processor or a computer is an unavoidable necessity.

Regarding claim 67-69, 73-74, once the need of a computer is established, it is used to provide various processes.

7. Claim 65 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

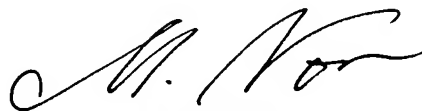
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (571) 272-2185. The examiner can normally be reached on Tuesday-Friday from 8:00 AM to 6:00 P.M.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2800. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The central fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHN

Wednesday, January 09, 2008



MAX NOORI
PATENT EXAMINER